

REMARKS

Applicants have studied the Office Action dated June 19, 2006. No new matter has been added. By virtue of this amendment, claims 10-13 and 30-37 are pending. Claims 1-9 and 14-29 have been cancelled without prejudice or disclaimer. Claims 30-37 are added. Reconsideration and further examination of the pending claims in view of the above amendments and the following remarks is respectfully requested.

The Applicants wish to thank Examiner Portka for indicating the allowable subject matter of claims 10 - 12. Claim 10 has been rewritten in independent form including all the limitation of the base claim and any intervening claims. The Applicants submit that claim 10 is now in a condition of allowance, which allowance is respectfully requested. Further, claims 11 - 13 depend from newly amended independent claim 10, since dependent claims contain all the limitations of the independent claims, claims 11 - 13 should be allowable as well, which allowance is respectfully requested.

Claim 13 was rejected under 35 U.S.C. §112, second paragraph for being indefinite because of the term "similarly sized buffers." The applicants have amended this language to recite "buffers whose size is substantially equal" in compliance with MPEP §21703.05(b) D to properly define, to those of average skill in the art, the variable partitioning of buffers and the grouping of buffer sizes as described in the specification at paragraphs [0023] - [0024] which provides an example that all of the buffers in one group are of one size and all the buffers of a second group are of a second size. Accordingly, the Applicants submit that the Examiner's rejection of claim 13 under 35 U.S.C. §112, second paragraph has been overcome and should respectfully be withdrawn.

Although the Applicants respectfully disagree with the Examiner's rejection of independent claims 1, 9, 14 and 22, the Applicants have elected to cancel independent claims 7 and 21 solely for the purpose of expediting the patent application process in a

manner consistent with PTO's Patent Business Goals (PBG), 65 Fed. Reg. 54603 (September 8, 2000). Therefore, this amendment does not narrow the scope of claims 10-13 within the meaning of *Festo*.¹

Further, Applicants have added new claims 30 – 37. Claims 30 – 33 contain the identical limitations as allowable claims 10 – 13 but are written in form of computer program product. Similarly, claims 34 – 37 contain the identical limitations as allowable claims 10 – 13 but are written in form of system format. Accordingly, because claims 10 – 13 are allowable, claims 30-33 and 34-37 should be allowable as well, which allowance is respectfully requested.

In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §§ 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are

¹ *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, No. 00-1543 (122 S. Ct. 1831; 2002 U.S. LEXIS 3818; 62 U.S.P.Q.2D (BNA) 1705)(Decided May 28, 2002).

allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE, if for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned attorney at (561) 989-9811 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

Date: July 12, 2006

By:


Jon Gibbons
Registration No. 37,333
Attorney for Applicants

FLEIT, KAIN, GIBBONS,
GUTMAN, BONGINI & BIANCO P.L.
One Boca Commerce Center, Suite 111
551 Northwest 77th Street
Boca Raton, FL 33487
Tel. (561) 989-9811
Fax (561) 989-9812